

# HOUSE . . . . . No. 3563

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Christopher N. Speranzo**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Establishing Transparency in "Pay-for-Performance" Provisions in Health Insurance Contracts.

PETITION OF:

NAME:

Christopher N. Speranzo

DISTRICT/ADDRESS:

3rd Berkshire

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT ESTABLISHING TRANSPARENCY IN "PAY-FOR-PERFORMANCE" PROVISIONS IN HEALTH INSURANCE CONTRACTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority  
of the same, as follows:*

1 Section 1. Any provision in a contract between (a) a health insurance carrier or HMO and (b) any  
2 provider that purports to adjust or vary the reimbursement payable to such provider, either for a particular  
3 service or in the aggregate, on the basis of quality of care measurements or other performance factors  
4 shall reflect nationally recognized standards and measures of care that are created by independent  
5 healthcare improvement organizations or agencies, such as the Joint Commission, the Institute for  
6 Healthcare Improvement, the Agency for Healthcare Research and Quality or others that have been  
7 recognized and/or approved by the Massachusetts Department of Public Health. The standard of care  
8 definitions, performance measurements and methodologies for analyzing data (including, but not limited  
9 to, use of risk adjustments) utilized in such contract provisions shall be those utilized by such healthcare  
10 improvement organizations or agencies, except to the extent that the parties to the contract have expressly  
11 agreed in writing otherwise. Upon inclusion of such a provision in a contract, it shall not be changed  
12 except (a) by express written agreement of the parties or (b) as such healthcare improvement  
13 organizations or agencies adjust their standards, definitions, measurements or methodologies. Any health  
14 insurance carrier or HMO proposing to make a reimbursement adjustment or variation based upon such a  
15 measurement of quality of care or other performance factor shall first give the affected provider at least  
16 60 days advanced written notice, together with full and complete disclosure of the basis and calculation  
17 justifying such adjustment or variation.